

REMARKS

Claims 32-51 are pending in the application. In the Office Action mailed July 11, 2003, the Examiner rejected claims 32-37 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 39-43 and 45-49 are objected to because of certain informalities but are otherwise allowed. Claims 38, 44, 50 and 51 are rejected as being anticipated.

Claim Objections

Claims 39-43 are objected to because of the following informalities: claim 39 must be ended with a period. Appropriate correction is required.

Claim 39

Claim 39 is amended to end with a period. Since claims 40-43 depend on independent claim 39, it follows that claims 40-43 are also in a condition for allowance. It is respectfully requested the Examiner withdraw the objections.

35 U.S.C. §112 second paragraph.

The office rejects claims 32-37 under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 32

Claim 32 is amended by changing the recitation "messages" to measurements as suggested by the Examiner. Claim 32, as amended, is now consistent with the use of the term measurement throughout the claim. Therefore, claim 32 is in a condition for allowance. Since claims 33-37 depend on independent claim 32, it follows that claims 33-37 are also in a condition for allowance. It is respectfully requested the Examiner withdraw the rejections.

35 U.S.C. § 102 (b)

Claims 38, 44, 50, and 51 are rejected under 35 U.S.C. § 102(b) as being anticipated by Andersson (U.S. Patent No. 5,375,123).

Claims 38, 44 and 50 are amended by adding the limitation "wherein the mobile station is in communication with at least one base station." The amendments to the claims should not be construed as an admission that the original claims are unpatentable over the cited reference, and are not made in response to the rejection, but instead clarify a further distinction between the Andersson reference and claims 38, 44 and 50.

Applicant respectfully submits the cited reference fails to teach or suggest for example, "compiling strengths of pilot signals received at a mobile station wherein the mobile station is in communication with at least one base station and caused by said operating, said compilation resulting in a pilot strength message," as recited in claim 38.

Andersson is directed to estimating channel interference for a NEW connection. "In the above described system (e.g., ADC) a signal strength measurement cannot be used to determine the interference on channels having a frequency on which the base is transmitting." (Anderson, col. 5 lns. 3-6.) In contrast, claim 38 requires the mobile station is in communication with at least one base station, and, as is well known in the art, CDMA networks as shown in figure 1 of the disclosure all operate on the same frequency. As stated in the application, "mobile station 2 measures the strength of the received pilot signals." (Application, page 8, line 19.) As stated above all of the received pilot signals are on the same frequency.

Also, it is important to note in the one embodiment in Anderson where the mobile station is used as a measuring probe the mobile station must be in an idle state, as opposed to mobile stations which are already connected. "In this exemplary embodiment, idle mobile stations, as opposed to mobile stations which are already connected as in the forgoing exemplary embodiment, are instructed to measure either or both of the word error rate or received signal strength on channels designated by the base station. The base instructs these idle mobile stations to perform such measurements via transmission overhead signaling to all of the mobile stations, e.g., the broadcast control channel (BCCH). For example, the system can send a list of up to eight frequencies on the BCCH which all idle mobile stations shall measure the signal strength of and report to the base station." (Andersson, Col. 6, lns. 41-54.) Claim 38 includes the limitation the mobile station is in communication with at last one base station. "In an IS-95 communication system, the mobile station sends a Pilot Strength Measurement Message when it finds a pilot of sufficient strength that is not associated with any of the Forward Traffic Channels currently being

demodulated or when the strength of a pilot that is associated with one of the Forward Traffic Channels being demodulated drops below a threshold for a predetermined period of time.” (Application, page 4, lns. 27-32.) It is clear from this description and claim 38 that the mobile station must be in communication with at least one base station, all of the base stations described are on the same frequency and the mobile station can be on a traffic channel.

From the cited text of Andersson and the Application, Andersson does not teach or disclose the limitations of claim 38. In contrast, Andersson teaches away from the application because Anderson specifically states a connected mobile cannot measure interference on a channel having a frequency on which the base is transmitting. “[T]his is because the base station itself would be the major contributor to any received signal strength.” (Anderson, col. 5 lns. 6-8) In a CDMA system as described in the present application, all base stations transmit on the same frequency. Thus, the mobile station of Anderson could not measure any of the parameters described in the present application because they are all transmitted on a common frequency. Even when a mobile station is in the idle state and used as a measurement probe in Andersson, the mobile station used as a probe is used to measure frequencies. The application and claim 38 do not disclose measuring frequencies. The application and claim 38 is directed to strengths of pilot signals received at a mobile station. As discussed above, these pilot signals are on a common frequency.

Thus, it is submitted Andersson does not anticipate claim 38, it is respectfully requested the rejection be withdrawn.

The Examiner rejected claims 44 and 50 for the same reasons set forth in claim 38, above. Thus, the discussion for claim 38 applies to claims 44 and 50, and claims 44 and 50 are also in a condition for allowance.

While the Examiner does not make a specific reference as to the reason for rejection to claim 51, claim 51 is dependent on independent claim 50, and it follows that since independent claim 50 is in a condition for allowance dependent claim 51 is also in a condition for allowance.

Allowable Subject Matter

Claims 39-43 and 45-49 are allowed.

Claims 32-37 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 second paragraph, set forth in the office action. Claims 32-37 have been amended as discussed under the section **35 U.S.C. §112 second paragraph** of this response. Examiners allowance of claims 39-43 and 45-49 is appreciated. Claims 32-37 are rewritten as suggested and thus, they are also in a condition for allowance.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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